

Dr. Joie Green
October 10, 2018

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Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA3
4 B.L., A MINOR, BY AND THROUGH :
5 HER FATHER, LAWRENCE LEVY, : CIVIL NO. 3:17-CV-1734-ARC
6 AND HER MOTHER, BETTY LOU :
7 LEVY, :8 PLAINTIFFS :
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V

MAHANOEY AREA SCHOOL DISTRICT,

DEFENDANT

DEPOSITION OF: DR. JOIE GREEN

TAKEN BY: PLAINTIFFS

BEFORE: MARIA N. O'DONNELL, RPR

NOTARY PUBLIC

DATE: OCTOBER 10, 2018, 11:12 A.M.

PLACE: MAHANOEY AREA SCHOOL DISTRICT

EXHIBIT**D - 22**

ONE GOLDEN BEAR DRIVE

MAHANOEY CITY, PENNSYLVANIA

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6 to 9

<p style="text-align: right;">Page 6</p> <p>1 students, staff and tax payer -- well, tax payers of the</p> <p>2 community. So just probably the main person that is</p> <p>3 responsible for everything.</p> <p>4 Q Okay. How many years have you been superintendent</p> <p>5 of the district?</p> <p>6 A Superintendent here since 2010. So eight years.</p> <p>7 Q And what position did you hold previous to that?</p> <p>8 A I was a middle school principal here from 2004 to</p> <p>9 2010. And then before that, I was a teacher for about fifteen</p> <p>10 years.</p> <p>11 Q Okay. Could you please look at Exhibit P-3, the</p> <p>12 district's interrogatory responses. They should be somewhere</p> <p>13 in the stack.</p> <p>14 A I put them in order for myself.</p> <p>15 Q Okay.</p> <p>16 A Okay.</p> <p>17 MR. BROWN: I think it is P-5.</p> <p>18 BY MS. TACK-HOOPER:</p> <p>19 Q I am sorry, it is P-5. My mistake.</p> <p>20 A Okay.</p> <p>21 Q You signed a verification at the back of this</p> <p>22 document, is that correct?</p> <p>23 A Yes.</p> <p>24 Q Did you review those responses before they were</p> <p>25 submitted?</p>	<p style="text-align: right;">Page 8</p> <p>1 you have to, you know, remove B., none of that. So it's</p> <p>2 basically up to the coaches themselves to determine what the</p> <p>3 appropriate punishments agree with what. That word punishment</p> <p>4 is for the child that doesn't follow their rules.</p> <p>5 Q So you were here for Miss Luchetta-Rump's testimony</p> <p>6 earlier today, right?</p> <p>7 A Yes.</p> <p>8 Q We talked about several parts of the handbook that</p> <p>9 refer to coaches adopting their own rules for their teams.</p> <p>10 Correct?</p> <p>11 A Yes.</p> <p>12 Q Okay. So coaches are allowed to make their own</p> <p>13 rules for their teams?</p> <p>14 A Correct.</p> <p>15 Q Are there any limits on what kind of rules coaches</p> <p>16 can make for their teams?</p> <p>17 A Well, they have to follow the PIAA rules, obviously</p> <p>18 that is required. They have to follow the ineligibility list</p> <p>19 rules as far as grading. But other than that, they can -- you</p> <p>20 know, they have guidelines. The guideline would be the</p> <p>21 student handbook, the PIAA. Then they go from there to make</p> <p>22 their rules.</p> <p>23 Q Have you reviewed the cheerleading rules for the</p> <p>24 district?</p> <p>25 A Not before this incident. I have never reviewed any</p>
<p style="text-align: right;">Page 7</p> <p>1 A Yes.</p> <p>2 Q And they're accurate?</p> <p>3 A Yes.</p> <p>4 MS. TACK-HOOPER: Okay. Let's mark this P-10.</p> <p>5 (Defendant's responses to plaintiffs' request for</p> <p>6 admission produced and marked Deposition Exhibit No. P10.)</p> <p>7 BY MS. TACK-HOOPER:</p> <p>8 Q You have in front of you Exhibit P10, the district's</p> <p>9 responses to plaintiffs' first request for admissions.</p> <p>10 At the back of this document, you have signed a</p> <p>11 verification. Did you review this document before it was</p> <p>12 submitted?</p> <p>13 A Yes.</p> <p>14 Q And are the responses in here accurate?</p> <p>15 A Yes.</p> <p>16 Q Okay. Were Ms. Luchetta-Rump and Ms. Gnall</p> <p>17 authorized by the school to remove B. from the cheerleading</p> <p>18 team as punishment for her Snap?</p> <p>19 A I wouldn't say authorized by the school district.</p> <p>20 Normally what happens is the coaches of various co-curricular</p> <p>21 activities have their own rules that they follow, and it's up</p> <p>22 to them to determine what is appropriate for their team and</p> <p>23 what isn't appropriate for their team. So I wouldn't say that</p> <p>24 the district authorized them to do that. There was no board</p> <p>25 approval saying that -- a board ratification saying, you know,</p>	<p style="text-align: right;">Page 9</p> <p>1 rules for any sports before this incident.</p> <p>2 Q Okay. What is your understanding of who reviewed</p> <p>3 rule -- who reviewed the cheerleading rules?</p> <p>4 A When?</p> <p>5 Q Before they were put into effect.</p> <p>6 A It's my understanding that the cheerleading coaches</p> <p>7 put their own rules into effect themselves.</p> <p>8 Q Okay.</p> <p>9 A It's not reviewed by the principal unless they have</p> <p>10 a question about something or something has changed from year</p> <p>11 to year and they have a question they want to run by the</p> <p>12 principal, but it is never reviewed with me.</p> <p>13 Q Okay. Let's look at the cheerleading rules. They</p> <p>14 are Exhibit D3.</p> <p>15 Have you had an opportunity to read these rules at</p> <p>16 some point?</p> <p>17 A Yes.</p> <p>18 Q Is there anything in these rules that goes beyond</p> <p>19 what coaches are allowed to do?</p> <p>20 A No.</p> <p>21 Q You heard the coaches testify about what various</p> <p>22 provisions of these rules mean. Did their explanation of how</p> <p>23 they apply these rules exceed what they're allowed to do in</p> <p>24 your opinion?</p> <p>25 A No.</p>

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10 to 13

<p style="text-align: right;">Page 10</p> <p>1 Q Would you say that the coaches had the power to</p> <p>2 remove B. from the cheerleading team without approval from</p> <p>3 anyone else?</p> <p>4 A Yes.</p> <p>5 Q After B. was punished, her parents had several</p> <p>6 conversations with district officials asking for</p> <p>7 reconsideration. Are you aware of this?</p> <p>8 A Yes.</p> <p>9 Q The high school principal at the time, Mr. Smith,</p> <p>10 stood by their decision. Correct?</p> <p>11 A Yes.</p> <p>12 Q You stood by their decision, correct?</p> <p>13 A Yes.</p> <p>14 Q Athletic Director Cray stood their by their</p> <p>15 decision?</p> <p>16 A Yes.</p> <p>17 Q On June 29th, 2017, Mr. Levy went to the board</p> <p>18 meeting to discuss this incident. Were you aware of that?</p> <p>19 A Yes.</p> <p>20 Q Did the board discuss Brandi's punishment at that</p> <p>21 meeting?</p> <p>22 A With Mr. Levy, yes. Her punishment, did you ask?</p> <p>23 Q Yes.</p> <p>24 A No. After the meeting was over, he -- they had</p> <p>25 stated that they were going to take it into consideration.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay.</p> <p>2 A I don't know if it was messaged through Facebook.</p> <p>3 It might have been a text message. I am not sure.</p> <p>4 Q Okay. It was some communication with Mr. Levy?</p> <p>5 A Correct.</p> <p>6 Q On August 11, correct?</p> <p>7 A Yes.</p> <p>8 Q And you state in there that the school board decided</p> <p>9 to stand by the coaches. Correct?</p> <p>10 A Yes.</p> <p>11 Q Was there -- did the board consider the issue of B's</p> <p>12 punishment a second time after the June 29th meeting?</p> <p>13 A I don't know -- I was trying to remember what</p> <p>14 happened. I don't know if they had discussed supporting the</p> <p>15 coaches that meeting, or if it was the meeting after that, the</p> <p>16 July meeting, because I don't understand why it took until</p> <p>17 August 11th to message Larry to tell him that.</p> <p>18 Q Okay.</p> <p>19 A I am not sure what happened there. I don't know if</p> <p>20 there was a discussion about it. I am not sure. But they had</p> <p>21 told me to notify him and let him know that they were going to</p> <p>22 support the coaches.</p> <p>23 Q Okay.</p> <p>24 A So that's what I did.</p> <p>25 Q Okay. Was there any kind of formal vote?</p>
<p style="text-align: right;">Page 11</p> <p>1 Q Okay. If you look at the interrogatory responses,</p> <p>2 which are P-5, response No. 3 says that the board took no</p> <p>3 action on the matter?</p> <p>4 A Right. The board did not take any action. They did</p> <p>5 not.</p> <p>6 MR. BROWN: Did you say that was No. 3?</p> <p>7 THE WITNESS: She said No. 3.</p> <p>8 BY MS. TACK-HOOPER:</p> <p>9 Q Did I get the number wrong? I will find it. Yes,</p> <p>10 it's at the end of the second paragraph in response to No. 3.</p> <p>11 The school board took no action on the matter?</p> <p>12 A Right.</p> <p>13 Q What does that mean?</p> <p>14 A They did not have a public meeting about it, a</p> <p>15 public vote about it. They didn't ratify anything. They</p> <p>16 didn't -- they just didn't have any -- normally like at a</p> <p>17 school board meeting, we do motions and approvals, they didn't</p> <p>18 do that for this situation.</p> <p>19 MS. TACK-HOOPER: Okay. P-11.</p> <p>20 (Document, Facebook messages, produced and marked</p> <p>21 Deposition Exhibit Number P11.)</p> <p>22 BY MS. TACK-HOOPER:</p> <p>23 Q You have what's been marked as P11. Is this a</p> <p>24 Facebook message between you and Mr. Levy?</p> <p>25 A Yes. Messenger message, yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 A No.</p> <p>2 Q Okay. Is there any reason in your view why the</p> <p>3 coaches decision to remove B. from the cheerleading squad as</p> <p>4 punishment for her Snap should not be attributed to the</p> <p>5 district?</p> <p>6 A What? I --</p> <p>7 MR. BROWN: Object to the form.</p> <p>8 THE WITNESS: I don't understand what you mean.</p> <p>9 BY MS. TACK-HOOPER:</p> <p>10 Q Sure. When the coaches decided to punish B., that</p> <p>11 is something that coaches are allowed to do, correct?</p> <p>12 A Yes.</p> <p>13 Q They were acting as coaches in the way that all of</p> <p>14 your coaches act, correct?</p> <p>15 A Yes.</p> <p>16 Q Okay. The rules in the handbook say that they get</p> <p>17 to set rules regarding students' out of school conduct and can</p> <p>18 punish students for violating those rules, correct?</p> <p>19 A Yes.</p> <p>20 Q The coaches did everything the way that you would</p> <p>21 expect them to handle the situation?</p> <p>22 A Yes.</p> <p>23 Q Okay. They weren't going rogue in this situation?</p> <p>24 A No.</p> <p>25 Q Okay. All right. And the district ultimately</p>

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14 to 17

<p style="text-align: right;">Page 14</p> <p>1 decided that the punishment was appropriate, correct?</p> <p>2 MR. BROWN: Objection to the form as far as what you</p> <p>3 mean by district.</p> <p>4 BY MS. TACK-HOOPER:</p> <p>5 Q Okay. The school board ultimately decided that the</p> <p>6 punishment was appropriate, correct?</p> <p>7 A The school board decided that they were going to</p> <p>8 support the coaches' decisions.</p> <p>9 Q Okay.</p> <p>10 A They said that they can't -- that they shouldn't get</p> <p>11 involved in extracurricular activities. That they need -- the</p> <p>12 coaches need to be able to hold their people accountable for</p> <p>13 what they do and don't do.</p> <p>14 Q Sure.</p> <p>15 A So it shouldn't be a board -- it shouldn't -- it</p> <p>16 shouldn't be at the board level.</p> <p>17 Q Right. So coaches should be allowed to make these</p> <p>18 decisions without having to go through the school board or</p> <p>19 other administrators, correct?</p> <p>20 A Coaches should be able to monitor their, I shouldn't</p> <p>21 say student, but that's what they are, monitor them the way</p> <p>22 they see fit for their activity.</p> <p>23 Q Okay. Are there any -- is there any training that</p> <p>24 coaches receive about the limits of their authority to punish</p> <p>25 students?</p>	<p style="text-align: right;">Page 16</p> <p>1 that the PIAA part of the handbook has to go across the board</p> <p>2 for everybody. You know, it's the rule for PIAA. They can't</p> <p>3 play in a football game if they're averages aren't at a</p> <p>4 certain point, if they're failing a subject like Nicole had</p> <p>5 said.</p> <p>6 Q Right.</p> <p>7 A So it goes hand in hand. So they have that as a</p> <p>8 guide to determine what their rules would be.</p> <p>9 Q Okay. Were there any parts of the handbook that we</p> <p>10 did not discuss this morning that you think someone should</p> <p>11 read in order to understand coaches power to punish their</p> <p>12 players?</p> <p>13 Feel free to go through the exhibits.</p> <p>14 A Just that the important part is the -- is page 78</p> <p>15 through 80, 81 is all of the PIAA information. That's taken</p> <p>16 right from there. So where it says interscholastic athletic</p> <p>17 procedures on the bottom of page 78 all of the way through</p> <p>18 page 81 before the words student counsel, that's everything</p> <p>19 that explains the suspension from a team, their attendance,</p> <p>20 their personal conduct, so on. But other than that, no.</p> <p>21 Q Okay. Just for the record, that was Exhibit P6?</p> <p>22 A P6, yes.</p> <p>23 Q Okay. We also looked at another policy, policy 218,</p> <p>24 which was marked as P-7. Do you -- can you find that one?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 A The training that are required for all coaches are</p> <p>2 through PIAA. And our -- all of our coaches are required to</p> <p>3 do those trainings. As far as if there is one for discipline,</p> <p>4 I am not sure.</p> <p>5 Q Okay. Did -- do school coaches have to notify</p> <p>6 anyone else at the school or the district either before or</p> <p>7 after they punish students?</p> <p>8 A They don't have to put -- we're such a small school,</p> <p>9 that the majority of them do.</p> <p>10 Q Okay.</p> <p>11 A They'll notify the principal or the athletic</p> <p>12 director.</p> <p>13 Q Okay. Are you aware of any coaches ever having been</p> <p>14 reprimanded or disciplined for disciplining students</p> <p>15 improperly?</p> <p>16 A Not that I am aware of, no.</p> <p>17 Q Okay. I'd like to -- we talked this morning about</p> <p>18 the cheerleading rules that the coaches made and also the</p> <p>19 student handbook. How do the cheerleading rules relate to the</p> <p>20 rules in the handbook?</p> <p>21 A So the handbook has part of the -- all of the PIAA</p> <p>22 requirements in it. And so they have to kind of -- one is the</p> <p>23 back hand of the other one. Do you understand what I am</p> <p>24 saying? So they use both of those to determine what would be</p> <p>25 the best appropriate rules for their teams. So I know like --</p>	<p style="text-align: right;">Page 17</p> <p>1 Q What is this policy?</p> <p>2 A This is a policy for student discipline.</p> <p>3 Q What is the policy? It says at the top book policy</p> <p>4 manual. What is the policy manual?</p> <p>5 A There is a policy manual that is required for all</p> <p>6 school districts. And each of them -- we do ours through the</p> <p>7 Pennsylvania School Boards Association. And this is the</p> <p>8 section 200 of the policy. It is policy 218, which is called</p> <p>9 student discipline.</p> <p>10 Q This is the PSEA's standard policy on student</p> <p>11 discipline?</p> <p>12 A No. PSBA, Pennsylvania School Board Association.</p> <p>13 Q I am sorry, PSBA. Sorry.</p> <p>14 A They recommend a policy to the districts. And then</p> <p>15 we I guess you could say tweak it to how our district is. And</p> <p>16 then our board votes on the policies two times in one month,</p> <p>17 two consecutive months, then it becomes a policy.</p> <p>18 We send it back to PSBA, then they approve it. And</p> <p>19 we post it on our web site.</p> <p>20 Q Okay. And is this a policy that you train</p> <p>21 cheerleading coaches on?</p> <p>22 A I don't train. No, I don't train cheerleading</p> <p>23 coaches on policy, no.</p> <p>24 Q Do you expect your coaches to be familiar with all</p> <p>25 of the districts's policies?</p>

<p style="text-align: right;">Page 18</p> <p>1 A That's a tough question because it's two fold. I</p> <p>2 expect the coaches to follow what is in the handbook as far as</p> <p>3 what they need to do and what they shouldn't be doing.</p> <p>4 The policy itself, there is procedures that are made</p> <p>5 for each policy. So the policy is the big thing, the big</p> <p>6 picture. Then there is procedures that we can create based on</p> <p>7 the policy. And those procedures would be the coaches' rules,</p> <p>8 PIAA procedures, all of those things. So do they follow the</p> <p>9 policy, they have to realistically -- I shouldn't say they</p> <p>10 have to, they need to look at the policy and determine what</p> <p>11 their rules are and procedures are from that point.</p> <p>12 So once the procedures are established, I would</p> <p>13 expect them to follow the procedures based on the policy. I</p> <p>14 hope that makes sense.</p> <p>15 Q I think so. But I am going to show you some more</p> <p>16 policies.</p> <p>17 A Okay.</p> <p>18 MS. TACK-HOOPER: Twelve, thirteen and fourteen.</p> <p>19 (Policy manual documents produced and marked</p> <p>20 Deposition Exhibit Numbers 12, 13, and 14.)</p> <p>21 BY MS. TACK-HOOPER:</p> <p>22 Q I have just handed you three more policies, Exhibits</p> <p>23 P12, P13 and P14. They are policies 122, 123 and 220.</p> <p>24 Do these policies also constrain the types of rules</p> <p>25 that coaches are allowed to set?</p>	<p style="text-align: right;">Page 20</p> <p>1 consistent with all of these policies in your view?</p> <p>2 A I don't know. I didn't really sit down and go</p> <p>3 through to make sure that they are.</p> <p>4 Q Okay. Do you want to take a moment and look at</p> <p>5 these -- these are four policies that your lawyer has produced</p> <p>6 in this litigation. Are they policies that you're familiar</p> <p>7 with?</p> <p>8 A Yes.</p> <p>9 Q Okay. Do you want to take a few minutes and just</p> <p>10 look at them again?</p> <p>11 A Yes, if you don't mind.</p> <p>12 Q Please take your time.</p> <p>13 A Could you read me your question again?</p> <p>14 Q Sure. In your view, are the cheerleading rules</p> <p>15 consistent with these district policies?</p> <p>16 A I would say yes.</p> <p>17 Q Okay. So you agree that coaches have the power to</p> <p>18 remove students from sports or extra-curriculars because of</p> <p>19 their out-of-school speech?</p> <p>20 A Depending on the situation.</p> <p>21 Q What does that mean?</p> <p>22 A Depending on what the issue is. If -- what is their</p> <p>23 out-of-school speech? If it's related, directly related to</p> <p>24 the school district, harms the school, harms any kind of</p> <p>25 verbal written or something that is going to hurt the school</p>
<p style="text-align: right;">Page 19</p> <p>1 A Constrain?</p> <p>2 Q Yes. So are these policies that coaches would need</p> <p>3 to read before writing say their cheerleading rules so that</p> <p>4 they --</p> <p>5 A Not necessarily. What I mean yes and no. So if --</p> <p>6 if the procedures -- if the policy is updated, then yes. But</p> <p>7 this -- these policies are from 2007, 2012, 2012, and 2007.</p> <p>8 So the rules and procedures are probably already in effect for</p> <p>9 these things. So, for example, cheerleading, like we saw, had</p> <p>10 rules from back in the stone age, and then they moved up. So</p> <p>11 as the policies were changed, they basically went off of -- as</p> <p>12 the rules were changed, it was based on most likely the</p> <p>13 policies. So -- or their procedures might have changed</p> <p>14 because of something that happened. Like, for example, Nicole</p> <p>15 had said that the one rule had changed because there was no --</p> <p>16 there was no Snapchat back then. You know, so they had to add</p> <p>17 some type of thing. So things change as they move forward.</p> <p>18 Q Sure.</p> <p>19 A Basically are they supposed to follow the policy?</p> <p>20 Yes. But also they need to up -- like these policies I can</p> <p>21 tell you currently right now are being updated. So we're in</p> <p>22 the process right now of updating every single one of our</p> <p>23 policies with PSBA. So it's kind of a hard question to</p> <p>24 answer.</p> <p>25 Q Let me ask it this way. Are the cheerleading rules</p>	<p style="text-align: right;">Page 21</p> <p>1 district, then yes; if it's not, then no.</p> <p>2 Q Okay. So would coaches have the power to adopt a</p> <p>3 rule that says that you can't swear outside of school because</p> <p>4 swearing reflects badly on the district?</p> <p>5 A That's a tough one too. I think that if they said</p> <p>6 -- they were swearing against the organization and that was in</p> <p>7 their rules, then that would be an issue. But if they were</p> <p>8 just swearing, I don't think that's an issue. It's an</p> <p>9 individual case basis.</p> <p>10 Q Okay.</p> <p>11 A You know, just like the SG thing was different than</p> <p>12 B's. You know, one did something wrong on social media. We</p> <p>13 addressed it. That punishment was different. B. did</p> <p>14 something wrong on social media, that punishment was</p> <p>15 different. So like it depends on the situation itself.</p> <p>16 Q Okay.</p> <p>17 A And based on what they have in their rules.</p> <p>18 Q Okay. But there is nothing about B's punishment</p> <p>19 that you think went too far and went beyond what coaches</p> <p>20 should be allowed to do, is that right?</p> <p>21 A Do you mean -- well, if -- no. I think that is</p> <p>22 right.</p> <p>23 Q Okay. We talked a lot about -- this morning about</p> <p>24 the nature of Snapchat and the fact that it is different from</p> <p>25 other social media platforms. In many ways it shares many</p>

<p style="text-align: right;">Page 22</p> <p>1 qualities with say like a large group text. In your view,</p> <p>2 your coaches have the power to say you can't say disparaging</p> <p>3 things about the school or about our sport to a large group of</p> <p>4 people, even if it is not public on line?</p> <p>5 MR. BROWN: I object to the form. But if you</p> <p>6 understand the question, you can answer.</p> <p>7 THE WITNESS: If it's public on line, and it is a</p> <p>8 derogatory remark towards their team and that is a rule of</p> <p>9 theirs, then yes, they have the option to discipline them.</p> <p>10 BY MS. TACK-HOOPER:</p> <p>11 Q Okay. I am talking about a situation that's not</p> <p>12 public on line. It's a closed group of some sort, either a</p> <p>13 closed social media group or like a large group chat.</p> <p>14 A If they find out about it, they have the right to</p> <p>15 discipline the child. If they find out that it is in fact a</p> <p>16 post, because obviously it wasn't private because everybody</p> <p>17 else found out about it.</p> <p>18 Q Okay. So in your view, coaches have the power to</p> <p>19 punish speech that comes into the school in some way even if</p> <p>20 it wasn't like open to everyone in the public, is that your</p> <p>21 view?</p> <p>22 A No. I am saying if -- if the speech effects the --</p> <p>23 that specific team or group, then yes. An if it's their rule,</p> <p>24 then yes.</p> <p>25 Q Right.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q Understood. I am trying to understand though if you</p> <p>2 think your coaches would be allowed to adopt a rule that says</p> <p>3 if you say to one person outside of school something negative</p> <p>4 about our sport and I hear about it, I am going to punish you.</p> <p>5 Would that be allowed?</p> <p>6 A I don't know how to answer that.</p> <p>7 Q Okay. Okay. Has the student handbook changed in</p> <p>8 the past few years in any way that is relevant to this case?</p> <p>9 A I don't believe so.</p> <p>10 Q Okay. Okay. One of your attorneys said at the</p> <p>11 preliminary injunction hearing that it's pretty much the same</p> <p>12 from year to year. Is that an accurate statement in your</p> <p>13 view?</p> <p>14 A Yes. If a policy updates or procedures update, then</p> <p>15 they're put in there. But the majority of it is the same.</p> <p>16 Q Okay. What is the most specific written statement</p> <p>17 that the district has that says that cheerleaders can be</p> <p>18 punished for saying fuck cheer off campus?</p> <p>19 A What is the most specific statement?</p> <p>20 Q Yes. So we have looked at a lot of policies, parts</p> <p>21 of the handbook that talked generally about personal conduct</p> <p>22 outside of school, I am just wondering --</p> <p>23 A There is no one specific answer to that. There is</p> <p>24 the -- there is a lot of things that would say a cheerleading</p> <p>25 coach could punish for speech that's outside based on the</p>
<p style="text-align: right;">Page 23</p> <p>1 A They have the right to punish those children.</p> <p>2 Q Okay. So someone could say something outside of</p> <p>3 school to one other person that could effect a team. You</p> <p>4 agree with that, right?</p> <p>5 A Uh-huh.</p> <p>6 Q And that one other person they sent it to could tell</p> <p>7 fifty other people, right?</p> <p>8 A Uh-huh.</p> <p>9 Q I am trying to figure out if that is something that</p> <p>10 you think that the school could punish, or if there is some</p> <p>11 kind of line drawn that the district does --</p> <p>12 A I look at it, my own personal view is if you are</p> <p>13 talking -- if I am talking to you by myself and I am saying to</p> <p>14 you cheerleading sucks, it's different than posting it on a</p> <p>15 public forum for everyone to see to get all of the</p> <p>16 cheerleaders worked up and upset. It happened both times. So</p> <p>17 like you need to discipline that person because it effected</p> <p>18 the team itself. If it didn't effect the team, or if it was</p> <p>19 just a conversation between you and I and no one else knew</p> <p>20 about it and I was mad at you one day and went up to the coach</p> <p>21 and said, hey, did you know that so and so said this to me,</p> <p>22 there is really nothing that you can do about that. To me</p> <p>23 there is a difference between freedom and speech and throwing</p> <p>24 a public -- out into a public forum of bashing of your group</p> <p>25 when you know that that is a rule that you're not able to do.</p>	<p style="text-align: right;">Page 25</p> <p>1 rules in the handbook, based on the rules that they establish,</p> <p>2 based on the procedures that they establish from the policies,</p> <p>3 all of that gives them that authority to do that.</p> <p>4 Q Okay. Do other sports teams have rules like the</p> <p>5 cheerleading rules that restrict athletes' speech when they're</p> <p>6 not at school or doing school activities?</p> <p>7 A I wouldn't know that, because they don't get their</p> <p>8 rules approved by me. I do know that some of the sports</p> <p>9 though have those types of things. But as far as all of them,</p> <p>10 I don't know.</p> <p>11 Q Okay. Let's look at P-2, the 30 (b)(6) deposition</p> <p>12 notice with the topics. So the second topic, it's on page A7,</p> <p>13 is one that you were designated on.</p> <p>14 A Okay.</p> <p>15 Q Subsection A says whether students participating in</p> <p>16 other high school athletics through the district are subject</p> <p>17 to restrictions on their out-of-school speech similar to the</p> <p>18 restrictions on speech imposed on cheerleaders, and if not,</p> <p>19 why not. Is that a topic you are able to speak about?</p> <p>20 A I can tell you that they -- whether students</p> <p>21 participate -- I can tell you that if the coach has that rule,</p> <p>22 they will put -- implement that rule.</p> <p>23 There has not been an issue like this until now. So</p> <p>24 I don't know of any that have an issue with disciplining the</p> <p>25 students for speech.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q Is there anyone in the district who would be more 2 familiar with these rules? Like I think that you mentioned 3 that coaches sometimes will show their rules to the athletic 4 director or the principal.</p> <p>5 A I can -- maybe the principal that was here prior to 6 this, Mr. Smith, but I don't think he's going to be able to 7 help you. Because the only time they would go to them for the 8 rules would be if there was a situation where they needed to 9 throw somebody off a team.</p> <p>10 Q Okay. All right. And the topic B under two on that 11 same document --</p> <p>12 A Yes.</p> <p>13 Q Whether HB, a football player, featured in the Utube 14 video at issue is Loy versus Mahanoy Area School District was 15 subjected to discipline as a result of his out-of-school 16 speech, and if not, why not. Is that something that you're 17 able to talk about?</p> <p>18 A Yes.</p> <p>19 Q Okay.</p> <p>20 A So HB was not a football player when the Utube video 21 for Loy and the Mahanoy Area School District was going on. He 22 wasn't on the team. So he wasn't subjected to discipline.</p> <p>23 Q Is that because it wasn't football season, or he 24 hadn't made the team?</p> <p>25 A It says was he featured in Utube video and was</p>	<p style="text-align: right;">Page 28</p> <p>1 season, he was not on the team any more?</p> <p>2 THE WITNESS: No. He was not on the team. He was 3 on the team for a few weeks and quit.</p> <p>4 MS. TACK-HOOPER: Got it.</p> <p>5 THE WITNESS: Then never went back on the team 6 again.</p> <p>7 MR. BROWN: The video occurred after.</p> <p>8 THE WITNESS: Right. The video occurred --</p> <p>9 BY MS. TACK-HOOPER:</p> <p>10 Q Are you aware of any -- so I know that you said that 11 you're not familiar with every teams rules. Do you have any 12 reason to believe that any other team has rules that would 13 allow the team to kick a student off for their out-of-school 14 speech?</p> <p>15 A Do I have any knowledge of that, no.</p> <p>16 Q Yes. Okay.</p> <p>17 Okay. Would there be any reason for cheerleaders to 18 be subject to more restrictions on their out-of-school speech 19 than students in other sports?</p> <p>20 A No.</p> <p>21 Q Okay. Okay. You were also designated to speak for 22 the district on topic four, which is about past incidents of 23 disruption caused by out-of-school speech. Is that a topic 24 that you are able to speak about?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 subjected to discipline, he wasn't.</p> <p>2 Q No. I am sorry. You said he wasn't a football 3 player. I am asking you if that's because -- so the video, as 4 I understand it from the other lawsuit, was dated February 7, 5 2017. Is that part of the football season?</p> <p>6 MR. BROWN: Wait. If you can, I think what you are 7 asking, I am just trying to mediate here.</p> <p>8 MS. TACK-HOOPER: Please, yes.</p> <p>9 MR. BROWN: You are asking whether it was -- he was a 10 football player, but it was out of season, or was he already 11 off of the football team, is that --</p> <p>12 MS. TACK-HOOPER: Yes, that's right.</p> <p>13 THE WITNESS: No. He played football his freshman 14 year for approximately a couple -- maybe a couple weeks and 15 quit.</p> <p>16 BY MS. TACK-HOOPER:</p> <p>17 Q I see. Okay.</p> <p>18 A He never went back out again. And he's a senior 19 this year. So he wasn't even on the football team at all 20 during this lawsuit.</p> <p>21 Q Okay. Okay.</p> <p>22 A So it's like it's --</p> <p>23 MR. BROWN: I think we're saying --</p> <p>24 MS. TACK-HOOPER: Sure.</p> <p>25 MR. BROWN: -- it wasn't because it was out of</p>	<p style="text-align: right;">Page 29</p> <p>1 Q Okay. Were there any past incidents of disruption 2 that would lead someone to believe that B's Snap might disrupt 3 classroom instruction or other school activities?</p> <p>4 A You lost me. Can you say that again?</p> <p>5 Q Sure. Sure.</p> <p>6 A I am trying to follow what you are saying.</p> <p>7 Q What other incidents are you aware of involving 8 disruption caused by a student's out-of-school speech?</p> <p>9 A None.</p> <p>10 Q None in the district?</p> <p>11 A No.</p> <p>12 MS. TACK-HOOPER: Okay. That is all I have.</p> <p>13 Do you have anything?</p> <p>14 BY MR. BROWN:</p> <p>15 Q I just have one question.</p> <p>16 We have been discussing the authority to remove B. 17 from the cheerleading team. Do you believe there is a 18 difference in removing a student from an extracurricular 19 activity, whether it's the sport of cheerleading versus 20 removing a student from their classes by suspension or 21 expulsion?</p> <p>22 A Yes. Absolutely. We don't -- that's a part of the 23 reason why the -- we separate the extracurricular from the 24 academic. So we didn't punish B., say you are suspended from 25 school for, you know, ten days for posting this on Facebook.</p>